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| APPLICATION NO.                                                      | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|----------------------------------------------------------------------|-------------|----------------------|------------------------|------------------|
| 09/579,620                                                           | 05/26/2000  | Joseph J. Danko      | 81328A                 | 7830             |
| 23685                                                                | 7590        | 08/13/2004           | EXAMINER               |                  |
| KRIEGSMAN & KRIEGSMAN<br>665 FRANKLIN STREET<br>FRAMINGHAM, MA 01702 |             |                      | ROSENBERGER, RICHARD A |                  |
|                                                                      |             |                      | ART UNIT               | PAPER NUMBER     |
|                                                                      |             |                      | 2877                   |                  |

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/579,620

Applicant(s)

DANKO, JOSEPH J.

Examiner

Richard A Rosenberger

Art Unit

2877

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1, 19 and 20.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

1. The amendment filed 19 July 2004 under 37 CFR 1.116 in reply to the final rejection has been entered, but is not deemed to place the application in condition for allowance. For purposes of appeal, the status of the claims is as follows:

**Allowed claim(s): none**

**Rejected claim(s): 1, 19, 20**

**Claim(s) objected to: none**

2. The remarks filed 19 July 2004 have been considered, but have not been found persuasive.

The remarks argue that the optics of the instant device is simpler than that of Danko, arguing that it has three lenses rather than six or seven lenses and has one rather than two beamsplitters. Claim 1, however, claims “the apparatus comprising”; the use of “comprising” here means that the claim is not limited to systems having only three lenses and one beam splitter, but include devices with more than three lenses and with two (or more) beam splitters. The Danko reference shows that three lenses claimed, and places a beamsplitter and polarizer combination where the beamsplitter is claimed, and thus shows and/or suggests what is claimed. It is noted that the beamsplitter and polarizer arrangement (beam splitter 101, polarized 31), is optically located in the system where the claim places the polarizing beam splitter: between the first imaging lens (89 in Danko) and the SLM (29 or Danko). The suggestion in the remarks that the beamsplitter “is

disposed optically at a location different from the plate beam splitter in figure 4 of Danko" (page 10, lines 18-19) is not correct as claimed; the beam splitter of Danko is located where the instant device is in the claim.

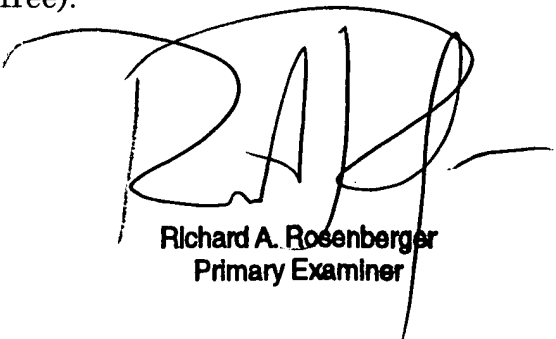
3. It is noted that it would be possible to write a claim which patentably distinguishes the location of the beamsplitter by setting forth the beamsplitter in its relationships to the first imaging lens, both of the two cameras, and the SLM, and thus would include what appears to be the argument that the instant device has one polarizing beamsplitter rather than two beamsplitters, but claim 1 does not so distinguish.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard A Rosenberg whose telephone number is (571) 272-2428. The examiner can normally be reached on Monday through Friday during the hours of 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2059. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R. A. Rosenberger  
9 August 2004



Richard A. Rosenberger  
Primary Examiner